

Kathryn
Hernandez/EPR/R8/USEPA/
US

04/01/2008 03:55 PM


To Mia Wood/ENF/R8/USEPA/US@EPA

cc

bcc

Subject Fw: Summit County Lower Silver Creek Ordinance

History:

 This message has been replied to.

Kathryn Hernandez
USEPA, Region VIII (8EPR-SR)
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Denver, CO 80202
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----- Forwarded by Kathryn Hernandez/EPR/R8/USEPA/US on 04/01/2008 03:55 PM -----



"Longwell, Daryl"
<Daryl.Longwell@tetrattech.com>

03/20/2008 01:45 PM

To Kathryn Hernandez/EPR/R8/USEPA/US@EPA

cc "Ludwig, Jon" <jon.ludwig@tetrattech.com>, "Marshall, Bruce" <Bruce.Marshall@tetrattech.com>

Subject FW: Summit County Lower Silver Creek Ordinance

Kathy - I just received this email from Lisa Fitzgerald with Summit County regarding the proposed overlay zone for the Lower Silver Creek area - being presented to the BOCC next week.

I have tried to work with Nora Shepard regarding some minor revisions to the boundaries of the overlay district to more closely align with parcel boundaries, but the attached map still does not reflect these changes. Would you like for us to pursue this with Lisa?

I have not yet reviewed the Draft ordinance or staff report.

Regards, Daryl

Daryl L. Longwell, P.E. | Senior Project Manager

Tel 303.447.1823 | Fax 303.447.1836

Cell 303.588.0902 | Email daryl.longwell@tetrattech.com

Tetra Tech

4900 Pearl East Circle, Suite 300W | Boulder, CO 80301

From: Lisa Fitzgerald [mailto:lfitzgerald@co.summit.ut.us]

Sent: Thursday, March 20, 2008 1:29 PM

To: Longwell, Daryl

Subject: Summit County Lower Silver Creek Ordinance

Hi Daryl,

Summit County has scheduled our proposed overlay zone ordinance for the Lower Silver Creek area for approval by the Board of County Commissioners next week on March 26th. Attached are the staff report, the draft ordinance, and the overlay map for your information.

Thank you,
Lisa

Lisa Fitzgerald
Environmental Planner II
Summit County Community Development
P.O. Box 128
Coalville, UT 84017
Phone (435) 336-3134
Fax (435) 336-3046
www.summitcounty.org

If you are not the intended recipient, please contact the sender and ignore the content of this



email. Lower Silver Creek Ordinance BCC report.doc Ord Soils draft 2.7-16-07.doc lower silver creek edited 2_12_08.pdf



STAFF REPORT

To: Summit County Board of Commissioners
From: Nora Shepard, Community Development Director
Jami Brackin, Deputy Summit County Attorney
Lisa Fitzgerald, County Planner
Re: Ordinance creating the Lower Silver Creek Impaired Soils Temporary Overlay Zone
Report Date: March 20, 2008
Mtg. Date: March 26, 2008

A. Description

- Project Name: Lower Silver Creek Impaired Soils Temporary Overlay Zone Ordinance
- Location: Snyderville Basin
- Zoning: Rural Residential, Hillside Stewardship, Community Commercial, Service Commercial
- Current Use: Vacant, Commercial, Agricultural
- Adjacent Use: Vacant, Commercial, Agricultural, Residential

B. Executive Summary

Summit County is proposing to enact a temporary overlay zone, which establishes boundaries of properties possibly contaminated from historic mining activities per the Utah Department of Environmental Quality 2001/2002 Innovative Assessment. The Overlay Zone informs the citizens and property owners of the possible presence of impaired soils and water, requires soils studies and, if needed, requires remediation to further protect the health, safety, and welfare of citizens in the Lower Silver Creek area (between Highway 248 and Interstate 80).

C. Project Description

In 2001 and 2002, the Utah Department of Environmental Quality (UDEQ) conducted an Innovative Assessment (IA) of Lower Silver Creek, Summit County, Utah. The IA was in cooperative agreement with the United States Environmental Protection Agency (USEPA), Region VIII. The purpose of the IA was to research to what extent soil, surface water, and ground water was contaminated from historic mining activities along

Lower Silver Creek.

The results of the study indicated there are elevated levels of metals including lead, mercury, zinc, chromium, and arsenic. These substances were detected at levels which pose a threat to the health of citizens and wildlife in the area. Among other reasons, increasing development in the area and the frequent use of the adjacent Rail Trail give cause for concern of human exposure to the contaminants and reasons to initiate cleanup options for the area.

The contamination of the Lower Silver Creek area has made the properties eligible for listing on the USEPA Comprehensive Environmental Response, Compensation, and Liability Information System list, also known as the CERCLIS or Superfund list. A Lower Silver Creek Stakeholders group – consisting of landowners, Summit County, USEPA, UDEQ, and other representatives – was formed and determined that options other than CERLIS listing were preferable.

Therefore, the proposed ordinance calls for a temporary Overlay Zone (Exhibits A and B) that indicates parcels along Lower Silver Creek with potential contamination. The parcels in this Overlay Zone would be subject to development and building permit restrictions pending proof of studies on the property that have shown no contamination or proof that the contamination has been cleaned up by the landowner.

Summit County is involved with the continued process to further study the Lower Silver Creek area. Within 180 days, the County anticipates having more detailed studies from USEPA, UDEQ, and hired consultants regarding the scope of the contamination. Also as part of further study, recommendations will be made on processes to cleanup affected properties in compliance with the proposed ordinance.

D. Recommendation

Staff recommends that the Summit County Board of Commissioners approve the proposed Ordinance requiring establishing the Lower Silver Creek soils Temporary Overlay Zone to inform the citizens and property owners of the presence of impaired soils and water and to require soils study and remediation.

ATTACHMENTS

Exhibit A – Proposed Ordinance

Exhibit B – Map depicting the proposed ordinance (Exhibit A of the ordinance)

ORDINANCE NO. _____

AN ORDINANCE REQUIRING ESTABLISHING THE LOWER SILVER CREEK SOILS TEMPORARY OVERLAY ZONE TO INFORM THE CITIZENS AND PROPERTY OWNERS OF THE PRESENCE OF IMPAIRED SOILS AND WATER AND TO REQUIRE SOILS STUDY AND REMEDIATION.

WHEREAS, an innovative site assessment was conducted by the Utah Department of Environmental Quality (UDEQ) in 2001/2002 and concluded that all of the Lower Silver Creek area should be considered for placement on the CERCLIS list for further investigation and possible remediation under Superfund; and

WHEREAS, a Lower Silver Creek Stakeholders and work group has been formed to discuss local remediation solutions other than listing on CERCLIS and

WHEREAS, the Environmental Protection Agency (EPA) and UDEQ are in the process of refining data to further define the areas and type of contamination in the Lower Silver Creek Area; and

WHEREAS Summit County seeks to recognize and inform the public and property owners of potential historical mining contamination in the Lower Silver Creek drainage area of the Snyderville Basin and to minimize potential exposure while studies are being performed; and

WHEREAS Summit County has received input from the public as well as private parties affected by the historical mining contamination; and

WHEREAS, it is anticipated that this ordinance and overlay zone will be revised once additional data is generated to more specifically address the actual areas and type of contamination and options for remediation; and

WHEREAS Summit County has adopted appropriate Land Use General Plans and Development Codes to regulate the proper use of land within the Snyderville Basin; and

WHEREAS Summit County declares it in the best interest of the public health, safety, and welfare to adopt appropriate regulations for development as concerns the environmental quality of the Lower Silver Creek;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, UTAH, AS FOLLOWS:

Section I. Definitions.

- A. "Development" is defined in Summit County Code, §10-Appendix A, "Development or Development Activity."
- B. "Development Permit" is defined in Summit County Code, §10-Appendix A, "Development Permit."

- C. "Soils Study" means a study conducted by a certified engineer and approved by UDEQ to measure the toxicity of the soil of the land which one owns, has developed, or desires to develop.
- D. "Remediate" means to remedy any environmental problems/violations as approved by UDEQ, EPA and Summit County on the land one already owns, has developed, or desires to develop, and according to the standards of any clean-up program pursuant to §II.C.i.-ii. herein.

Section II. Provisions.

This Ordinance creates a temporary overlay zone to minimize potential exposure to heavy metals from contaminated soils within the Lower Silver Creek drainage area, which is identified in Exhibit A, and consists of the Silver Creek drainage area between Highway 248 and I-80.

A. Development.

- i. Anyone desiring to develop or redevelop in the overlay zone shall obtain a soils study and shall show evidence that the development area is outside of the impacted area or shall propose a plan to remediate any environmental problems/violations identified in the study to the satisfaction of UDEQ and EPA before Summit County will grant a development permit.
- ii. Any party who has received approval to develop in the overlay zone, but has not yet built, shall obtain a soils study and shall show evidence that the development area is outside of the impacted area or shall propose a plan to remediate any environmental problems/violations identified in the study to the satisfaction of UDEQ and EPA before Summit County will grant building permits.
- iii. Any land owners who may have already built, and/or who does not wish to develop, in the overlay zone shall hereby be on notice that once the final EPA Study is completed, if property they own is in the identified impacted area, they shall be required to remediate under the terms identified in the EPA Study and shall have a limited time in which to do so.

B. Remediation.

- i. Environmental issues identified in any soils study may be remediated through the State of Utah Voluntary Clean Up Program ("VCUP"). A certificate from VCUP shall be prima facie evidence of satisfactory compliance; or
- ii. Remediation may be executed through any other clean-up plan approved in advance and in writing from UDEQ, EPA and Summit County.

Section III. Violations, Penalties, Enforcement.

- A. Violations of this Ordinance may be prosecuted criminally under the Summit County Code §10-9-20(A). Notwithstanding any criminal prosecution, the county may pursue any and all civil remedies available to it pursuant to Summit County Code §10-9-19(E) to ensure compliance with this Ordinance.

Section IV. Effect.

- A. This Ordinance shall become effective when approved, passed, and published pursuant to Utah Law.

APPROVED, ADOPTED, and PASSED this ____ day of ____, 2008.

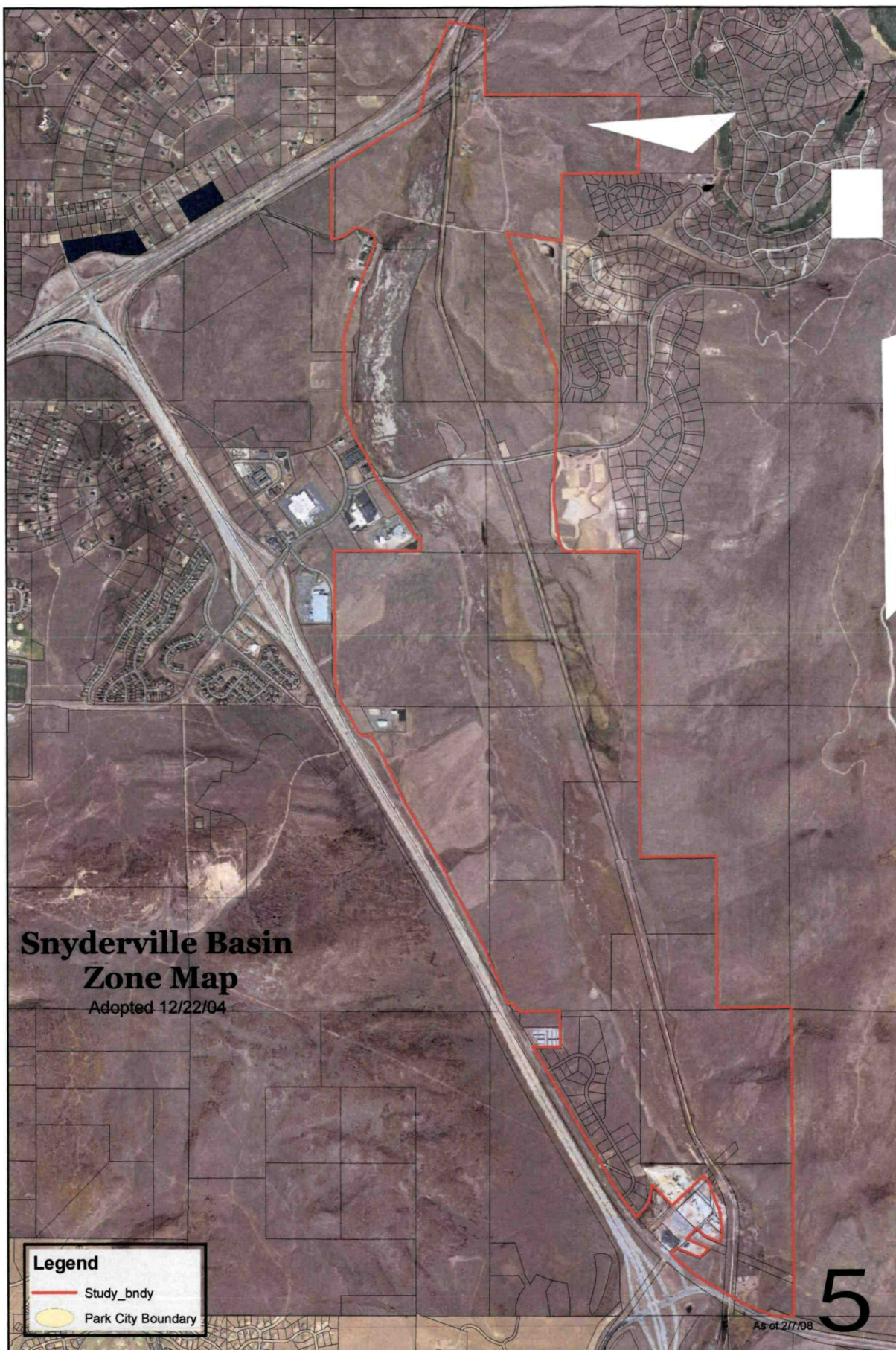
BOARD OF COUNTY COMMISSIONERS
SUMMIT COUNTY, UTAH

By: _____
Chair

Commissioner Elliot Voted: _____
Commissioner Richer Voted: _____
Commissioner Woolstenhulme Voted: _____

ATTEST:

COUTNY CLERK
SUMMIT COUTNY, UTAH



**Snyderville Basin
Zone Map**
Adopted 12/22/04

Legend
— Study_bndy
Park City Boundary